

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

CHRISTOPHER L. CHABRIER,

Plaintiff,

-against-

CORRECTIONAL OFFICER MARTINEZ;
CORRECTIONAL OFFICER DENNIS;
CORRECTIONAL OFFICER JOHN DOE,

Defendants.

22-cv-6239 (GHW) (JW)

ORDER OF SERVICE

JENNIFER WILLIS, United States Magistrate Judge:

Plaintiff, who is currently detained at the Vernon C. Bain Center (“VCBC”), brings this *pro se* action under 42 U.S.C. § 1983, alleging that Defendants violated his rights while he was detained at the Anna M. Kross Center (“AMKC”) and VCBC. By order dated July 26, 2022, the Court granted Plaintiff’s request to proceed without prepayment of fees, that is, *in forma pauperis* (“IFP”).¹

DISCUSSION

A. Rule 21 of the Federal Rules of Civil Procedure

Under Rule 21 of the Federal Rules of Civil Procedure, the Court, on its own motion, “may at any time, on just terms, add or drop a party.” Fed. R. Civ. P. 21; see Anwar v. Fairfield Greenwich, Ltd., 118 F. Supp. 3d 591, 618-19 (S.D.N.Y. 2015) (Rule 21 “afford[s] courts discretion to shape litigation in the interests of efficiency and justice.”). Under Rule 21, courts have added as defendants individuals and entities

¹ Prisoners are not exempt from paying the full filing fee, even when they have been granted permission to proceed IFP. *See* 28 U.S.C. § 1915(b)(1).

who are not named as defendants in the complaint but are alleged to be involved in the underlying deprivations. See George v. Westchester Cnty. Dep't of Corr., No. 20-cv-1723, 2020 WL 1922691, at *2 (S.D.N.Y. Apr. 21, 2020).

In the complaint, Plaintiff alleges that Captain Young and a number of unidentified correction officers and medical staff members allegedly caused the violations of his rights at AMKC and VCBC. He also claims that the New York City Department of Correction (“DOC”) is unable to keep inmates safe at Rikers Island because of the pervasive presence of gangs. In light of Plaintiff’s assertions, the Clerk of Court is directed under Rule 21, to amend the caption of this action to add the following defendants: (1) the City of New York; (2) Captain Young; (3) AMKC John Doe correction officers 2-3; (4) AMKC John Doe medical staff members; (5) AMKC John Doe correction officers 4-8; (6) VCBC John Doe correction officers 1-5; and (7) VCBC John Doe medical staff members. This amendment is without prejudice to any defenses that these Defendants may wish to assert.

A. Waiver of Service

The Clerk of Court is directed to notify the New York City Department of Correction and the New York City Law Department of this order. The Court requests that Defendants City of New York, Correctional Officer Martinez, Correctional Officer Dennis, and Captain Young waive service of summons.

B. Valentin Order to Identify John Doe Defendants

Under Valentin v. Dinkins, a *pro se* litigant is entitled to assistance from the district court in identifying a defendant. 121 F.3d 72, 76 (2d Cir. 1997). In the

complaint, Plaintiff appears to supply sufficient information to permit the government to identify: (1) the three AMKC John Doe correction officers who allegedly failed to protect Plaintiff from assaults on May 12 and 15, 2021 at Dorm 2 Upper of AMKC; (2) the AMKC John Doe medical staff members who provided medical care to Plaintiff after the May 15, 2021 assault; (3) the AMKC John Doe correction officers, who were allegedly deliberately indifferent to Plaintiff's serious medical condition after the May 15, 2021 assault; (4) the VCBC John Doe correction officers, who were allegedly deliberately indifferent to Plaintiff's medical condition from May 18 to 22, 2022; and (5) the VCBC John Doe medical staff members who provided medical care to Plaintiff from May 18 to May 22, 2021.

It is therefore ordered that the New York City Law Department, which is the attorney for and agent of DOC, must ascertain the identity and badge number of each John Doe correction officer whom Plaintiff seeks to sue here and the address where each defendant may be served.² It is also ordered that NYC Health + Hospitals ("H+H")³ must ascertain the identity of each John Doe medical staff member whom Plaintiff seeks to sue here and the address where each defendant may be served. The

² If the Doe defendant is a current or former DOC employee or official, the Law Department should note in the response to this order that an electronic request for a waiver of service can be made under the e-service agreement for cases involving DOC defendants, rather than by personal service at a DOC facility. If the Doe defendant is not a current or former DOC employee or official, but otherwise works or worked at a DOC facility, the Law Department must provide a residential address where the individual may be served.

³ Plaintiff attaches to the complaint medical records from H+H, indicating that he was likely treated by medical staff employed by H+H or its subcontractor, the Physicians Affiliate Group of New York ("PAGNY").

New York City Law Department and H+H must provide this information to Plaintiff and the Court within 60 days of the date of this order.

Within 30 days of receiving this information, Plaintiff must file an amended complaint naming the John Doe defendants. The amended complaint will replace, not supplement, the original complaint. An amended complaint form that Plaintiff should complete is attached to this order. Once Plaintiff has filed an amended complaint, the Court will screen the amended complaint and, if necessary, issue an order asking the named defendants to waive service or directing the Clerk of Court to complete and deliver all documents necessary to the U.S. Marshals Service to effect service on the named defendants.

C. Local Civil Rule 33.2

Local Civil Rule 33.2, which requires defendants in certain types of prisoner cases to respond to specific, court-ordered discovery requests, applies to this action. Those discovery requests are available on the Court's website under "Forms" and are titled ["Plaintiff's Local Civil Rule 33.2 Interrogatories and Requests for Production of Documents."](#) Within 120 days of the date of this order, Defendants must serve responses to these standard discovery requests. In their responses, Defendants must quote each request verbatim.⁴

⁴ If Plaintiff would like copies of these discovery requests before receiving the responses and does not have access to the website, Plaintiff may request them from the Court's Pro Se Intake Unit.

CONCLUSION

The Clerk of Court is directed under Rule 21 of the Federal Rules of Civil Procedures, to amend the caption of this action to add the following defendants: (1) the City of New York; (2) Captain Young; (3) AMKC John Doe correction officers 2-3; (4) AMKC John Doe medical staff members; (5) AMKC John Doe correction officers 4-8; (6) VCBC John Doe correction officers 1-5; and (7) VCBC John Doe medical staff members.

The Clerk of Court is also instructed to electronically notify the New York City Department of Correction and the New York City Law Department of this order. The Court requests that the City of New York, Correctional Officer Martinez, Correctional Officer Dennis, and Captain Young waive service of summons.

The Clerk of Court is further directed to mail a copy of this order and the complaint to: (1) New York City Law Department, 100 Church Street, New York, New York 10007; and (2) New York City Health + Hospitals, 125 Worth Street, New York, New York 10013. An Amended Civil Rights Complaint form is attached to this order.

Local Civil Rule 33.2 applies to this action.

The Clerk of Court is directed to mail an information package to Plaintiff.

SO ORDERED.

Dated: August 12, 2022

New York, New York

A handwritten signature in black ink, reading "Jennifer E. Willis", is written over a horizontal line.

JENNIFER WILLIS

United States Magistrate Judge

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Write the full name of each plaintiff.

____ CV ____
(Include case number if one has been assigned)

-against-

COMPLAINT
(Prisoner)

Do you want a jury trial?

☐ Yes ☐ No

Write the full name of each defendant. If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed above must be identical to those contained in Section IV.

NOTICE

The public can access electronic court files. For privacy and security reasons, papers filed with the court should therefore *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number. See Federal Rule of Civil Procedure 5.2.

I. LEGAL BASIS FOR CLAIM

State below the federal legal basis for your claim, if known. This form is designed primarily for prisoners challenging the constitutionality of their conditions of confinement; those claims are often brought under 42 U.S.C. § 1983 (against state, county, or municipal defendants) or in a “*Bivens*” action (against federal defendants).

☐ Violation of my federal constitutional rights

☐ Other: _____

II. PLAINTIFF INFORMATION

Each plaintiff must provide the following information. Attach additional pages if necessary.

First Name	Middle Initial	Last Name
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State any other names (or different forms of your name) you have ever used, including any name you have used in previously filing a lawsuit.

Prisoner ID # (if you have previously been in another agency’s custody, please specify each agency and the ID number (such as your DIN or NYSID) under which you were held)

Current Place of Detention

Institutional Address

County, City	State	Zip Code
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III. PRISONER STATUS

Indicate below whether you are a prisoner or other confined person:

☐ Pretrial detainee

☐ Civilly committed detainee

☐ Immigration detainee

☐ Convicted and sentenced prisoner

☐ Other: _____

IV. DEFENDANT INFORMATION

To the best of your ability, provide the following information for each defendant. If the correct information is not provided, it could delay or prevent service of the complaint on the defendant. Make sure that the defendants listed below are identical to those listed in the caption. Attach additional pages as necessary.

Defendant 1:

First Name	Last Name	Shield #
Current Job Title (or other identifying information)		
Current Work Address		
County, City	State	Zip Code

Defendant 2:

First Name	Last Name	Shield #
Current Job Title (or other identifying information)		
Current Work Address		
County, City	State	Zip Code

Defendant 3:

First Name	Last Name	Shield #
Current Job Title (or other identifying information)		
Current Work Address		
County, City	State	Zip Code

Defendant 4:

First Name	Last Name	Shield #
Current Job Title (or other identifying information)		
Current Work Address		
County, City	State	Zip Code

INJURIES:

If you were injured as a result of these actions, describe your injuries and what medical treatment, if any, you required and received.

VI. RELIEF

State briefly what money damages or other relief you want the court to order.

VII. PLAINTIFF'S CERTIFICATION AND WARNINGS

By signing below, I certify to the best of my knowledge, information, and belief that: (1) the complaint is not being presented for an improper purpose (such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation); (2) the claims are supported by existing law or by a nonfrivolous argument to change existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Federal Rule of Civil Procedure 11.

I understand that if I file three or more cases while I am a prisoner that are dismissed as frivolous, malicious, or for failure to state a claim, I may be denied *in forma pauperis* status in future cases.

I also understand that prisoners must exhaust administrative procedures before filing an action in federal court about prison conditions, 42 U.S.C. § 1997e(a), and that my case may be dismissed if I have not exhausted administrative remedies as required.

I agree to provide the Clerk's Office with any changes to my address. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Each Plaintiff must sign and date the complaint. Attach additional pages if necessary. If seeking to proceed without prepayment of fees, each plaintiff must also submit an IFP application.

Dated	Plaintiff's Signature
First Name	Middle Initial
	Last Name
Prison Address	
County, City	State
	Zip Code

Date on which I am delivering this complaint to prison authorities for mailing: _____